

**ITEL**

CORDATION NO. 8610-F Filed & Recorded

AN 12 1987 3-4 0 PM

**Itel Rail Corporation**

January 6, 1987

INTERSTATE COMMERCE COMMISSION

55 Francisco Street  
San Francisco, California 94133  
(415) 984-4000

Hon. Noretta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

Re: **Fourth Amendment, effective as of June 30, 1986, to Equipment Lease Agreement dated as of November 23, 1976, as amended, between Mellon National Leasing Company, now known as Mellon Financial Services Corporation 3, as Lessor, and Itel Rail Corporation, successor in interest to Itel Corporation, Rail Division, and to SSI Rail Corp., as Lessee**

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in five (5) counterparts, is hereby submitted for filing and recording pursuant to 49 USC §11303(a), along with a check in the amount of \$10 covering the recordation fee.

Please record this Amendment under the Equipment Lease Agreement dated as of November 23, 1976, between Mellon National Leasing Company and Itel Corporation, Rail Division, which was filed with the ICC on December 14, 1976, and given Recordation No. 8610.

The parties to the aforementioned instrument are listed below:

Mellon Financial Services Corporation #3 (Lessor)  
One Mellon Bank Center, Suite 3030  
Pittsburgh, Pennsylvania 15258

Itel Rail Corporation (Lessee)  
55 Francisco Street  
San Francisco, California 94133

This Amendment covers one hundred ninety-five (195) boxcars leased to the Atlanta & St. Andrews Bay Railway Company ("ASAB"), the Clarendon & Pittsford Railroad Company ("CLP") and the Lake Erie, Franklin and Clarion Railroad Co., which boxcars bear reporting marks ASAB 7150-7199, ASAB 8050-8099, CLP 3001-3060 and LEF 1000-1039, respectively.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the fee receipt and a letter from the ICC acknowledging this filing.

Very truly yours,

*patricia schumacker*  
Patricia Schumacker  
Legal Department

cc: Howard L. Chabner, Esq.  
Robert C. Kiehnle  
Ginny Hanger

7-012A024

AN 12 1987

10.00

ICC, Washington, D. C.

OFFICE OF  
THE SECRETARY  
JAN 13 3 23 PM '87  
FOR OPERATING UNIT

Interstate Commerce Commission  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

1/14/87

PATRICIA SCHUMACKER  
ITEL RAIL CORPORATION  
33 FRANCISCO STREET  
SAN FRANCISCO, CALIF 94133

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/14/87 at 3:40pm, and assigned recordation number(s). 8610-F & 9553-C

Sincerely yours,

*Norita K. McGee*  
Secretary

Enclosure(s)

SE-30  
(7/79)

FOURTH AMENDMENT ("FOURTH AMENDMENT")  
EFFECTIVE AS OF JUNE 30, 1986,  
TO EQUIPMENT LEASE AGREEMENT  
DATED AS OF NOVEMBER 23, 1976, AS AMENDED,  
BETWEEN MELLON NATIONAL LEASING COMPANY,  
NOW KNOWN AS  
MELLON FINANCIAL SERVICES CORPORATION 3, AS LESSOR ("LESSOR"),  
AND ITEL RAIL CORPORATION, SUCCESSOR IN INTEREST TO  
ITEL CORPORATION, RAIL DIVISION,  
AND TO SSI RAIL CORP., AS LESSEE ("LESSEE")

RECORDATION NO. 86/0-F  
JAN 12 1987 3-4 0 PM  
Filed & Recorded  
INTERSTATE COMMERCE COMMISSION

R E C I T A L S

- A. Lessor and SSI Rail Corp. (predecessor in interest to Itel Corporation, Rail Division, and to Lessee) entered into an Equipment Lease Agreement dated as of November 23, 1976, pursuant to which two hundred (200) boxcars described therein were delivered and accepted;
- B. Lessor and Itel Corporation entered into a Guaranty and Suretyship Agreement (the "Guaranty") dated as of November 23, 1976, wherein Itel Corporation guaranteed and became surety for the payment and all other performance of SSI Rail Corp. under the Equipment Lease Agreement;
- C. The First Amendment ("First Amendment") to the Equipment Lease Agreement was made as of January 3, 1977;
- D. The Second Amendment ("Second Amendment") to the Equipment Lease Agreement was made as of January 10, 1977;
- E. SSI Rail Corp. was merged into Itel Corporation on December 22, 1977 and, thereby, Itel Corporation became the sole obligor under the Equipment Lease Agreement and the Guaranty ceased to have any force or effect;
- F. Itel Corporation was Debtor and Debtor in Possession in the case under Chapter 11 of the Bankruptcy Code known as In re Itel Corporation, Debtor, Case No. 3-81-00111, in the United States Bankruptcy Court, Northern District of California (the "Bankruptcy Court");

G. The Bankruptcy Court approved Itel Corporation's Amended Plan of Reorganization (the "Amended Plan") which provided, among other things, that all the rights, obligations and liabilities of the Rail Division of Itel Corporation were transferred to and assumed by Lessee, a wholly-owned subsidiary of Itel Corporation;

H. The Third Amendment ("Third Amendment") to the Equipment Lease Agreement was made as of October 1, 1982;

I. Pursuant to the Amended Plan and an order of the Bankruptcy Court, the Equipment Lease Agreement, as amended by the First Amendment, Second Amendment and Third Amendment, was assumed by Itel Corporation and assigned to Lessee, effective as of September 19, 1983;

J. Lessor and Lessee have agreed to further amend and supplement the Equipment Lease Agreement (as amended to date and as amended herein, the "Lease") upon the terms and conditions set forth herein;

NOW, WHEREFOR, in consideration of the premises and the mutual covenants hereinafter set forth, Lessor and Lessee hereby agree as follows:

1. All capitalized terms used herein, if not defined herein, shall have the meanings assigned to them in the Lease. All section or exhibit designations used herein shall refer to the respective section or exhibit in the Lease, unless otherwise stated herein.
2. This Fourth Amendment shall be effective as of June 30, 1986.
3. The first two paragraphs of Section 3 are amended by deleting subsections 3(a), 3(d) and 3(e) and by replacing subsection 3(c) with the following:

"(c) The parties agree that there are one hundred ninety-five (195) Cars deemed to be subject to the Lease as of June 30, 1986. Total remaining scheduled rent payments for each Car, not including Additional Rental (as defined below), shall be as follows: (i) each June 30, September 30, December 31 and March 31, commencing on June 30, 1986 and continuing through March

31, 1993, a sum equal to 2.3405% of the Purchase Price of such Car; (ii) each of June 30, 1993 and September 30, 1993, a sum equal to 1.8054% of the Purchase Price of such Car. In addition, Lessee shall pay Lessor the sum of Thirty-Nine Thousand, Two Hundred Eight Dollars and Forty-One Cents (\$39,208.41) upon the execution of this Fourth Amendment by Lessee."

The following shall be added to Section 3, at the end thereof:

- (n) "Lessee shall also pay Lessor Additional Rental (as defined in subsection 3(g)) commencing with the quarterly rent payment which was due March 31, 1986, and continuing through the quarterly rent payment due June 30, 1987."
- 4. Schedule C is hereby deleted and replaced with Schedule C-1, attached hereto and incorporated herein by reference. All references in the Lease to Schedule C (including the references in Section 9) are hereby deemed to refer to Schedule C-1.
- 5. Unless further extended pursuant to Section 19 of the Lease, the term of the Lease shall be extended, and Lessee shall be entitled to the possession, use and quiet enjoyment of the boxcars, through and including December 31, 1993, and all references in the Lease to the expiration date shall be deemed to refer to December 31, 1993.
- 6. (a) Subsection 19(a) of the Lease is hereby amended: 1) by deleting "March 31, 1992" and inserting in lieu thereof "December 31, 1993," and 2) by deleting "June 30, 1992" and inserting in lieu thereof "March 31, 1994."  
  
(b) Subsection 19(b) of the Lease is hereby amended by deleting "April 1, 1992" and inserting in lieu thereof "January 1, 1994."
- 7. Lessor hereby waives any Defaults and Events of Default that might otherwise exist under the Lease due to Lessee's payments of sums due Lessor according to Section 3 hereinabove prior to June 30, 1986.

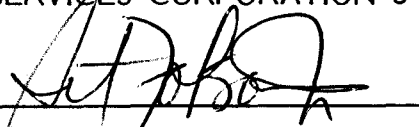
8. Subsection 14(e), effective until the termination or expiration of the Lease, shall be added to Section 14 as follows:

"(e) Any Default or Event of Default by Lessee under Section 3 (entitled "Rent, Net Lease") of the Equipment Lease Agreement dated as of June 1, 1978, as amended, between Lessor and Lessee that remains uncured after the expiration of any applicable cure period."

9. As security for Lessee's performance of its obligations under the Lease, Lessee shall grant Lessor a security interest in any operating sublease with respect to the Cars now or from time to time in effect substantially in the form of Exhibit D attached hereto.

MELLON FINANCIAL  
SERVICES CORPORATION 3

By



ARTHUR FOLSOM, JR.

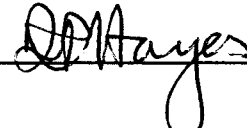
Title ~~SENIOR VICE PRESIDENT~~

Date

12/10/86

ITEL RAIL CORPORATION

By

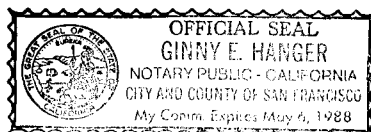


Title President

Date 1/6/87

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN FRANCISCO ) ss.

On the 6th day of January, 1986, before me personally came Desmond P. Hayes to me known, who, being by me duly sworn, did depose and say that he is the President of Itel Rail Corporation, one of the parties described in and which executed the above instrument; that the execution of the above instrument was duly authorized by the board of directors of Itel Rail Corporation; and that he signed his name thereto pursuant to like authority.



Ginny E. Hanger  
Notary Public

STATE OF Pennsylvania )  
 )  
COUNTY OF Allegheny ) ss.

On the 10th day of December, 1986 before me personally came Arthur A. Folsom, Jr. to me known, who, being by me duly sworn, did depose and say that he is the Senior Vice President of Mellon Financial Services Corp. #3, one of the parties described in and which executed the above instrument; that the execution of the above instrument was duly authorized by the board of directors of Mellon Financial Services Corp. #3; and that he signed his name thereto pursuant to like authority.

John William Thompson  
Notary Public

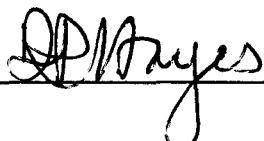
JOHN WILLIAM THOMPSON, Notary Public  
1111 10th St., ALLEGHENY COUNTY  
CITY OF PITTSBURGH, PENNSYLVANIA  
Member, Pennsylvania Association of Notaries

## EXHIBIT D

Itel Rail Corporation ("Itel Rail") hereby assigns, sets over and transfers unto Mellon Financial Services Corporation 3 ("Mellon"), as successor to Mellon National Leasing Company, for security purposes only, as security for Itel Rail's obligations under the Equipment Lease Agreement dated as of November 23, 1976, as amended, between Mellon National Leasing Company, as lessor, and Itel Rail Corporation, successor in interest to Itel Corporation, Rail Division, and to SSI Rail Corp., as lessee (the "Leveraged Lease"), all of Itel Rail's right, title and interest in and to the leases as set forth on Exhibit D-I attached hereto (the "Leases") solely insofar as such leases relate to the boxcars numbered on Exhibit D-I (the "Boxcars"). This assignment authorizes Mellon to sue for, collect and receive and enforce in its own name all payments and other obligations of the lessees subject to the Leases with respect solely to the Boxcars, except that Mellon shall not take any action unless it has notified Itel Rail that an event of default under the Leveraged Lease has occurred and is continuing and that the cure period has elapsed. Itel Rail will, from time to time, at the request of Mellon, make, execute and deliver all such further instruments of assignment, transfer and assurance and do such further acts as Mellon may reasonably request to give effect to the provisions of this assignment. This assignment shall expire upon the full payment of the rent payments in the Leveraged Lease, and Mellon shall take all action reasonably requested by Itel Rail to make clear upon public records Itel Rail's unencumbered right, title and interest to such Leases.

ITEL RAIL CORPORATION

Dated 1/6/87

By   
Title President

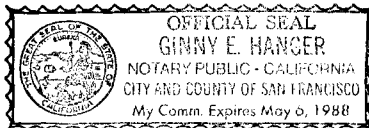


## EXHIBIT D-I

<u>Agreement</u>	<u>No. of Units</u>	<u>Reporting Marks</u>
The Lease Agreement dated as of May 5, 1978 between Itel Corporation, Rail Division, as Lessor, and Atlanta and Saint Andrews Bay Railway Company, as Lessee	48	ASAB 7150-7199
	48	ASAB 8050-8099
The Lease Agreement dated as of October 18, 1976, between SSI Rail Corp., as Lessor, and Clarendon & Pittsford Railroad Company, as Lessee	59	CLP 3001-3060
The Lease Agreement dated as of January 3, 1977, between SSI Rail Corp., as Lessor, and Lake Erie, Franklin and Clarion Railroad Co., as Lessee	39	LEF 1000-1039

STATE OF CALIFORNIA       )  
                                      )  
COUNTY OF SAN FRANCISCO )       ss.

On the 6th day of January, 1988 <sup>(1988)</sup> before me personally came Desmond P. Hayes to me known, who, being by me duly sworn, did depose and say that he is the President of Itel Rail Corporation, one of the parties described in and which executed the above instrument; that the execution of the above instrument was duly authorized by the board of directors of Itel Rail Corporation; and that he signed his name thereto pursuant to like authority.



Ginny E. Hanger  
Notary Public

## Schedule C-1

Casualty Occurrence  
After Before  
Payment

Casualty Value Due  
on Date of Rental  
Number

Casualty Value  
As of % of Price

0	1	1	100.6423
1	2	2	101.0076
2	3	3	101.2285
3	4	4	101.7586
4	5	5	102.2325
5	6	6	102.6504
6	7	7	103.0122
7	8	8	103.3178
8	9	9	103.5674
9	10	10	103.7608
10	11	11	103.8982
11	12	12	103.9794
12	13	13	104.0045
13	14	14	97.5633
14	15	15	97.4762
15	16	16	97.3330
16	17	17	97.1337
17	18	18	96.8784
18	19	19	96.5668
19	20	20	96.1922
20	21	21	95.7755
21	22	22	88.8855
22	23	23	88.3495
23	24	24	87.7575
24	25	25	87.1094
25	26	26	86.4051
26	27	27	85.6448
27	28	28	84.8283
28	29	29	83.9558
29	30	30	76.6169
30	31	31	75.6321
31	32	32	74.5912
32	33	33	73.4942
33	34	34	72.3411
34	35	35	71.1320
35	36	36	79.5467
36	37	37	78.5901
37	38	38	77.5869
38	39	39	76.5371
39	40	40	75.4413
40	41	41	74.2995
41	42	42	73.1121
42	43	43	71.8792
43	44	44	70.6013

## Schedule C-1

<u>Casualty Occurrence</u>		<u>Casualty Value Due</u>	<u>Casualty Value</u>
<u>After</u>	<u>Before</u>	<u>on Date of Rental</u>	<u>As of % of Price</u>
<u>Payment</u>		<u>Number</u>	
44	45	45	69.2785
45	46	46	67.9111
46	47	47	66.4996
47	48	48	65.0440
48	49	49	63.5448
49	50	50	62.0024
50	51	51	60.4169
51	52	52	58.7889
52	53	53	57.1185
53	54	54	55.4062
54	55	55	53.6524
55	56	56	51.8574
56	57	57	50.0215
57	58	58	48.1453
58	59	59	46.2291
59	60	60	41.6053
60	61	61	39.5730
61	62	62	37.4882
62	63	63	35.3495
63	64	64	33.1555
64	65	65	31.4399
65	66	66	29.6800